

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: RULE MAKING PROCEDURES	DOCKET NO. RMU-99-6
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ORDER ADOPTING RULES

(Issued November 23, 1999)

Pursuant to the authority of IOWA CODE §§ 476.1 and 476.2(1) (1999), the Utilities Board adopts the amendments attached hereto and incorporated by reference. This rule amends IOWA ADMIN. CODE 199-3 (1999). The reasons for this amendment are set forth in the attached notice of intended action.

IT IS THEREFORE ORDERED:

1. The amended rules attached hereto, and incorporated by this reference, are adopted by the Board, effective January 19, 2000.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 23rd day of November, 1999.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 476.1 and 476.2 (1999), the Utilities Board (Board) gives notice that on November 23, 1999, the Board issued an order in Docket No. RMU-99-6, Rule Making Procedures, "Order Adopting Rules," by which the Board adopted certain revisions to the Board's existing rule-making procedures. The Board is revising its existing procedures to implement changes required by amendments to the Iowa Administrative Procedure Act, 1998 Iowa Acts, chapter 1202.

The Board previously conducted a rule-making inquiry, identified as Uniform Rules On Agency Procedure, Docket No. RMU-99-2, in which the Board sought public comment concerning the possible adoption of the state's uniform rule-making procedures. The comments received did not support adoption of the uniform rules; instead, they favored minimal modification of the Board's existing rules to accommodate the statutory changes. The Board adopted the approach favored by the public comments, that is, modification of its existing rules, and commenced this rule making procedure.

The Board is revising and substantively updating all of its rule-making procedures. As a part of that process, various editorial and grammatical changes are being adopted that do not affect the substance of the rules. The changes are intended to simplify the rules and make the language more consistent.

Notice of the proposed rule making was published in the Iowa Administrative Bulletin on August 11, 1999, as ARC 9272A. Written comments were filed on or before September 3, 1999, and a public hearing to receive oral comments was held on September 15, 1999.

Written comments were filed by MidAmerican Energy Company, the Consumer Advocate Division of the Department of Justice, Missouri River Energy Services, and the Iowa Telecommunications Association. The comments generally support the proposed changes to the Board's existing rule-making procedures, although they suggest a variety of minor revisions, described below.

One of the proposed new rules is a revision of the Board's existing general waiver provision, subrule 1.3, to clarify that it can apply in all proceedings, rather than just contested cases. MidAmerican asserts that the Board's rules contain three separate waiver provisions, in rules 1.3 and 3.1(3) and an unspecified part of Chapter 7. MidAmerican suggests these rules can be combined into a single rule. Consumer Advocate suggests the Board revise the waiver rule to add that waiver may be granted only if application of the rule would result in hardship or injustice, would be consistent with the public interest, and would not prejudice the substantial rights of any other person.

The Board will not adopt the suggested changes. The Board's intent in proposing revisions to the waiver rule was to clarify the rule, which could have been interpreted to apply only to "parties" in a contested case. The Board does not intend to implement substantive changes to the rule at this time.

MidAmerican also suggests the creation of a mechanism for serving copies of all written statements on all commentors in each proceeding, either by creating a service list after comments are filed and requiring each commentor to serve each other participant, or through distribution of a summary of all written comments, to be prepared by the Board.

The Board will not adopt either of these suggestions. The Board already creates a service list in every rule-making docket and the Board serves its orders on every person appearing on that list. Requiring that every person filing comments must serve copies of those comments on every other person on the list, however, could impose a significant burden on smaller commentors participating in large proceedings. This could discourage public input in some proceedings, a result the Board is anxious to avoid. The Board notes that all comments filed with the Board are readily available for public inspection and copying at the Board's office, and for a cost-based charge the Board will mail copies of the comments to anyone asking for them. These mechanisms should be sufficient to make all filed comments available to any interested person, without imposing a service burden that could discourage public participation in some proceedings.

Distribution of a summary of comments would be another possible mechanism to encourage parties to be aware of the comments filed, but it may be difficult to accomplish in a timely manner in most proceedings. Moreover, it could lead to disputes with various parties regarding the manner in which their comments were

summarized, which would only distract from the substance of the proceeding. The Board will not adopt either of these suggested revisions.

Similarly, Missouri River suggests the Board should develop a mechanism for notifying interested persons of the commencement of any rule making that may be of interest to them. Missouri River suggests the Board could maintain a mailing list of persons wishing to be so notified.

While the Board is always interested in encouraging public participation in its rule making proceedings, the Board will not adopt Missouri River's suggestion. Notice of every Board rule making is published in the Iowa Administrative Bulletin; the order commencing each proceeding is published on the Board's Web site and the Board's electronic bulletin board; and any interested person can receive all Board orders, by mail, for an annual fee. Moreover, many industry associations independently notify their members of Board rule makings of potential interest. These mechanisms appear to be sufficient to inform the public of Board rule making proceedings, although the Board will continue to consider additional mechanisms for encouraging public participation.

The proposed rules include a new provision incorporating the requirement of Iowa Code section 25B.6 (1999) that a fiscal impact statement be prepared whenever a proposed rule mandates additional combined expenditures of more than \$100,000 by all affected political subdivisions or agencies and entities that contract with political subdivisions to provide services. MidAmerican offers the interpretation that, because utilities sometimes contract to sell power to political

subdivisions, they are included in the group of entities that can require performance of a fiscal impact analysis. Thus, in MidAmerican's view, any rule that requires a combined expenditure of more than \$100,000 by all of the utilities in the state would have to be the subject of a fiscal impact statement.

The Board does not agree with MidAmerican's interpretation of the statute. The phrase "agencies and entities which contract with political subdivisions to provide services" does not refer to all entities that sell anything to a political subdivision on contract. Instead, it refers to entities that, pursuant to a contract, provide services to the public on behalf of the political subdivision, that is, that are fulfilling the role of the political subdivision. Using MidAmerican's interpretation would mean that the Board would have to incorporate a fiscal impact statement in nearly every rule making proceeding conducted by the Board. This is not the intended effect of Iowa Code section 25B.6, which is intended to address the problem of unfunded mandates, not to impose a fiscal impact statement requirement on every single rule making.

MidAmerican also suggests that proposed rules 3.7 and 3.7(4), both of which state that the Board may schedule an oral presentation on its own motion, may be redundant. The Board concurs and will delete proposed subrule 3.7(4).

Consumer Advocate suggests the Board add three additional statements to its rule making rules to establish certain principles that would guide the Board's future actions. The first would be a policy in favor of establishing law by rule making rather than by adjudicatory process whenever feasible. The second would be a

statement that a notice of inquiry proceeding can never result in either a rule or an adjudicatory order. The third would add the same restriction to "notice and comment" proceedings.

The Board will reject all three proposed revisions. The first principle, favoring rule making over contested cases as a policy development tool, is now a statutory requirement. See Iowa Code section 17A.3(1)"c," as amended by 1998 Iowa Acts, chapter 1202, section 7. Copying the statute into the Board's rules will not add anything to the rules other than length.

The second and third principles, restricting the Board's use of notice of inquiry proceedings, would interfere with Board decision-making to an excessive degree. The new rules describing notice of inquiry proceedings are intended to be flexible; they should cover both a notice of inquiry and a "notice and comment" proceeding. This flexibility is the factor that makes an NOI or INU docket a useful tool for the Board; if the dockets cannot ever result in any final Board action, it is hard to see why the Board would ever want to invest resources in conducting them. Of course, Consumer Advocate is correct that a notice of inquiry will not normally result in the adoption of rules without a subsequent rule making proceeding; that can happen only if the Board finds, for good cause, that it can adopt rules without notice and public participation pursuant to Iowa Code section 17A.4(2).

Missouri River suggests the Board should increase the minimum time between the publication of a notice of intended action and the deadline for filing written statements, from 20 days to 45 days. Similar extensions should be applied to the

time for requesting an oral presentation and for requesting an extension of the schedule, although no specific time frame is suggested.

The requirement of a minimum of 20 days between publication of the notice and filing of written statements is statutory. Iowa Code section 17A.4(1)"b." The Board has allowed longer time periods in many rule-making dockets, when the subject matter of the docket makes it appropriate. There seems to be little benefit to mandating a substantial extension of the minimum time frame in all dockets, when a longer time can always be allowed on a case-by-case basis. The Board will not adopt Missouri River's suggested addition.

Further, Missouri River suggests the second sentence of proposed rule 3.5(2) is unnecessary and should be omitted. The sentence provides that, if publication of a notice of rule making is not required by law, written statements may be filed as authorized by the Board. However, subrule 3.4(3) provides that the Board will always publish a notice of rule making, even if not required by law. The Board finds merit in this suggested revision and will revise the adopted rules accordingly.

The ITA suggests that proposed subrule 3.6(2) should be revised. As proposed, the rule requires that any written counterstatements of position must be filed prior to the oral presentation, if one is scheduled. The ITA suggests that filing of counterstatements should be encouraged prior to the oral presentation, but should not be required, because the time between the filing of initial statements and the oral presentation is sometimes rather short.

The Board will not adopt the ITA's suggested revision. The proposed language requiring that written counterstatements be filed before the oral presentation was a purposeful addition to the rules, intended to prevent the situation where an interested person submits a written counterstatement containing contested statements after the oral presentation, depriving other persons of the opportunity to respond. While it can be difficult to prepare a written counterstatement and file it in the interval between the filing of initial statements and the oral presentation, any person can request an extension or a waiver of the deadline in appropriate cases. In ruling on the request for waiver, the Board will be able to make any appropriate provision for further responses, as well.

These amendments are intended to implement Iowa Code section 476.2. They will become effective on January 19, 2000.

The following amendments are adopted.

Item 1. Rescind 199 IAC 1.3(17A,474) and adopt the following new rule in lieu thereof:

199—1.3(17A,474) Waiver of any rule. The board may, on its own motion or at the request of any person, waive any of its rules for good cause shown, unless otherwise provided by law.

Item 2. Amend 199 IAC 3 as follows:

CHAPTER 3

~~RULEMAKING~~

RULE MAKING

199—3.1(17A,474) Purpose and scope.

3.1(1) *In general.* These rules shall govern the practice and procedure in all rule-making proceedings of the Iowa utilities board (board).

3.1(2) *Rules of construction.* If any provision of a rule or the application of a rule to any person or circumstance is itself or through its enabling statute held invalid, the invalidity does not affect other provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of the rule are severable.

3.1(3) *Waiver.* The Board may waive the application of any of these rules pursuant to 199 IAC 1.3(17A,474).

3.1(4) *Forms and filing requirements.* All rule making filings shall substantially comply with the forms prescribed in 199 IAC 2.2(17A,474). All filings shall include an original and ten copies.

These rules are intended to implement Iowa Code section 476.2.

199—3.2(17A,474) Notice of inquiry. In addition to seeking information by other methods, the board may solicit comments from the public on the subject matter of possible rule making by the board by causing notice of the subject matter to be published in the Iowa Administrative Bulletin, indicating where, when, and how persons may comment.

199—3.2 3.3(17A,474) Petition for adoption of rules.

~~3.2(1)~~ *Petitioner.* Any interested person may petition the board for the adoption, amendment, or repeal of a rule.

~~3.2(2)~~ *Form of petition.* A petition for rule making shall substantially comply with the form prescribed in 199—subrule 2.2(1). The original and ten copies of the petition shall be filed with the board.

This rule is intended to implement Iowa Code section 476.2.

199—3.34(17A,474) Commencement of proceedings.

3.34(1) *Commenced by order.* Rule-making proceedings shall be commenced only upon written order of the board. The board may commence a rule-making proceeding by order upon its own motion or upon the filing of a petition for rule making by any interested person.

3.34(2) *Board action on petition.* Within 60 days after the filing of a petition for rule making, the board shall either deny the petition by written order on the merits, stating the reasons therefor, commence by written order a rule-making proceeding, or adopt by written order a rule pursuant to Iowa Code section 17A.4(2).

3.34(3) *Notice of rulemaking.* Upon the commencement by written order of a rule-making proceeding, the board shall, ~~if required by law,~~ cause the required notice of the proceeding to be published in the Iowa Administrative Bulletin.

3.4(4) *Fiscal impact statement.* Pursuant to Iowa Code section 25B.6, a proposed rule that mandates additional combined expenditures exceeding \$100,000 by all affected political subdivisions, or agencies and entities which contract with political subdivisions to provide services, shall be accompanied by a fiscal impact

statement outlining the costs associated with the proposed rule. If the board determines at the time it adopts a rule that the earlier fiscal impact statement contains errors or that a fiscal impact statement should have been prepared but was not, the board will issue a corrected or delayed fiscal impact statement.

199—3.45(17A,474) Written statements of position.

3.45(1) *Persons.* Any interested person may file a written statement of position containing data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of a rule.

~~—3.45(2) *Filing.* The time period, as directed by the board, for filing of written statements of position shall be not less than 20, nor more than 30 calendar days after publication of the notice of rule making in the Iowa Administrative Bulletin. If the publication of a notice of rule making is not required by law, written statements of position may be filed as authorized by the board.~~

~~3.4(3) *Form of written statement of position.* A written statement of position shall substantially comply with the form prescribed in 199—subrule 2.2(2). The original and ten copies of a written statement of position shall be filed with the board.~~

3.45(42) *Service.* Written statements of position shall be served by the author upon the petitioner, if any, and consumer advocate at the time of filing.

~~This rule is intended to implement Iowa Code section 476.2.~~

199—3.56(17A,474) Counter-statements of position.

3.56(1) *Petitioner.* The petitioner, if any, may file a counterstatement of position with the board in response to written statements of position.

3.56(2) Filing. Counterstatements of position, if any, shall be filed with the board prior to the oral presentation or, if no oral presentation is scheduled, not later than 15 calendar days after the petitioner's receipt of the written statement of position to which the petitioner is responding.

~~—3.5(3) Form of counterstatements of position. A counterstatement of position shall substantially comply with the form prescribed in 199—subrule 2.2(3). The original and ten copies of a counterstatement of position shall be filed with the board.~~

3.56(43) Service. Counterstatements of position shall be served by the petitioner at the time of filing upon the authors of written statements of position to which the petitioner is responding and to consumer advocate.

~~This rule is intended to implement Iowa Code section 476.2.~~

199—3.67(17A,474) Requests for oral presentation. If an oral presentation is not scheduled by the board on its own motion, any interested person may file a request for an oral presentation.

3.67(1) Filing. The time period, as directed by the board, for filing of requests for oral presentation shall be not less than 20, ~~nor more than 30~~ calendar days after the publication of the notice of rule making in the Iowa Administrative Bulletin.

~~3.6(2) Form of requests for oral presentation. A request for oral presentation shall substantially comply with the form prescribed in 199—subrule 2.2(4). The original and ten copies of a request for oral presentation shall be filed with the board.~~

3.67(32) *Action on proper request.* Within 15 calendar days of the filing of a request for oral presentation, the board shall determine if the request is in accordance with Iowa Code section 17A.4. If the board determines that the request complies with section 17A.4, the board shall by written order schedule oral presentation on the rule making and shall cause a notice of the oral presentation to be published in the Iowa Administrative Bulletin. The notice shall state the date, time, and place of the oral presentation and shall briefly describe the subject matter of the rule-making proceeding. The oral presentation on the rule making shall be not less than ten calendar days after the publication of the notice. The board shall serve a similar notice on the party requesting oral presentation, on any other persons filing written comments, and on the petitioner, if any.

3.67(43) *Action on improper request.* If the board determines that a request for oral presentation does not comply with Iowa Code section 17A.4, it may by written order deny such request stating the reasons therefor, or it may, in its discretion, grant the request and schedule an oral presentation ~~in accordance with the procedures hereinbefore prescribed.~~

~~**3.67(54)** *Action on own motion.* The board may, on its own motion, schedule an oral presentation on the rule making in accordance with the procedures hereinbefore prescribed.~~

~~This rule is intended to implement Iowa Code section 476.2.~~

199—3.78(17A,474) Rule-making oral presentation.

3.78(1) *Written appearance.* ~~Upon the filing of a written appearance, any~~ Any interested person may participate in rule-making oral presentations in person or by counsel. A written appearance ~~shall~~ may be filed not less than five calendar days prior to oral presentation. ~~The board may, in its discretion, waive the filing of a written appearance as a condition precedent to participation in said oral presentation. The general counsel shall not be required to file a written appearance.~~

~~**3.7(2)** *Form of written appearance.* A written appearance shall substantially comply with the form prescribed in 199—subrule 2.2(15). The original and ten copies of a written appearance shall be filed with the board.~~

3.78(32) *Oral presentations.* Participants in rule-making oral presentations may submit exhibits and present oral statements of position which may include data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of the rule. Participants shall not be required to take an oath and shall not be subject to cross-examination, ~~provided however, that the~~ The board may, in its discretion, permit the questioning of participants by any interested person, ~~and provided further, that~~ but no participant shall be required to answer any question.

3.78(43) *Rebuttal and limitations.* The board may, in its discretion, permit rebuttal statements of position and request the filing of written statements of position subsequent to the adjournment of the rule-making oral presentation. The board may limit the time of any oral presentation and the length of any written presentation.

~~This rule is intended to implement Iowa Code section 476.2.~~

199—3.89(17A,474) Rule-making decisions.

3.89(1) *Adoption, amendment, or repeal.* The board shall by written order adopt, amend, or repeal the rule pursuant to the rule-making proceeding, or dismiss the proceeding in accordance with Iowa Code section 17A.4. The written order shall include a preamble to the adopted rules explaining the principal reasons for the action taken and, if applicable, a brief explanation of any decision not to permit waiver of the adopted rules. The board may, by order, specify the effective date of the adoption, amendment, or repeal of the rule.

3.9(2) *Variance between adopted rule and proposed rule.* The board may adopt a rule that differs from the rule proposed in the Notice of Intended Action in the following situations:

a. The differences are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in the Notice;

b. The differences are a logical outgrowth of the contents of the Notice and the comments submitted in response thereto;

c. The Notice indicated that the outcome of the rule making could be the rule in question;

d. The differences are so insubstantial as to make additional notice and comment proceedings unnecessary; or

e. As otherwise permitted by law.

3.89(23) *Statements.* Upon the adoption, amendment, or repeal of a rule or termination of a rule-making proceeding, and if timely written request is filed by any

interested person pursuant to Iowa Code section 17A.4(1)"b," the board shall, within 35 days of the request, issue a formal written statement of the principal reasons for and against the adoption, amendment, or repeal of the rule, or termination of the rule-making proceeding, including the reasons why the board overruled the positions in opposition to the board's decision. ~~A request for statement shall substantially comply with the form prescribed in 199—subrule 2.2(5).~~

~~199—3.9(17A,474) Regulatory flexibility analysis.~~

~~**3.9(1)** For purposes of these rules "*small business*" shall have the same definition as in Iowa Code section 17A.31(1).~~

~~**3.9(2)** *Published notice of small business impact.* If the board proposes a rule which may have an impact on small business, the notice of intended action shall expressly recite this possibility and describe the procedure to be followed for making a timely request for a regulatory flexibility analysis to the board.~~

~~**3.9(3)** *Registration for the small business impact list.* Small businesses or small business organizations as defined in Iowa Code section 17A.31 may register to be included on the board's small business impact list by making a specific, written request addressed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319. The request for registration shall state:~~

- ~~a. The name of the small business or small business organization.~~
- ~~b. Its address.~~
- ~~c. The name of a person authorized to transact business for the requesting party.~~

~~d. A description of the requesting party's business or its organizational purposes.~~

~~The board may request additional information from the applicant to determine whether the applicant is qualified as a small business or a small business organization. The board will send a letter every year to each small business or small business organization on the list asking whether the small business or organization wishes to remain on the list. The name of the small business or organization will be removed from the list if a negative response is received or if no response is received within one month after the letter is sent.~~

~~**3.9(4)** *Mailed notice of small business impact.* Prior to the publication of a notice of intended action described in subrule 3.9(2), the board shall notify small businesses or small business organizations on the small impact list, by ordinary first-class mail, of the changes it proposes to make to its rules. In the case of a rule made effective under Iowa Code section 17A.4(2) or 17A.5(2) "b," the board shall provide mailed notice to small businesses or small business organizations on the small business impact list within seven days after publication of the rule.~~

~~**3.9(5)** *Request for regulatory flexibility analysis.* Requests for regulatory flexibility analysis to reduce the impact of a rule on small business may be made within 20 days after the publication of the notice of intended action.~~

~~a. The board shall entertain a request for a regulatory flexibility analysis from:~~

~~(1) The governor.~~

~~(2) The administrative rules review committee.~~

~~(3) A political subdivision of the state.~~

~~(4) Twenty-five or more persons who sign the request, provided that each represents a different small business.~~

~~(5) An organization registered on the small business impact list which represents at least 25 persons.~~

~~b. A request for a regulatory flexibility analysis should specify the proposed rule or portion of the proposed rule for which the analysis is requested.~~

~~c. Upon the receipt of a timely valid request for a regulatory flexibility analysis, the board shall consider whether it may reduce the impact of the proposed rule on small business by considering each of the following methods:~~

~~(1) Establishing less stringent compliance or reporting requirements.~~

~~(2) Establishing less stringent schedules or deadlines for compliance or reporting requirements.~~

~~(3) Consolidating or simplifying compliance or reporting requirements.~~

~~(4) Replacing design or operational standards with performance standards.~~

~~(5) Exempting small business from any or all rule requirements.~~

~~(6) Considering the nature and cost of preparation of any required reports weighed against the benefits to be gained from such reports.~~

~~(7) Considering the nature and estimated cost of measures or investments required of small business for compliance, weighed against the benefits to be gained.~~

~~(8) Considering the nature and estimated cost of professional, legal, consulting or accounting services incurred for compliance, weighed against the benefits to be gained.~~

~~(9) Considering the probable cost to the board or any other agency of the implementation and enforcement of the rule and its anticipated effect on state revenue.~~

~~(10) Comparing the possible cost and benefits which would accrue from a proposed rule as opposed to the probable effect of inaction.~~

~~(11) Determining whether the purposes sought by the board might be achieved by other less costly or less intrusive methods.~~

~~(12) Describing alternative methods seriously considered by the board, and the reasons that such methods were rejected in favor of the proposed rule.~~

~~(13) Considering any other method provided by a requesting party which is legal and feasible in meeting the statutory objective which is the basis of the proposed rule.~~

~~d. When the board is required to issue a regulatory flexibility analysis of a proposed rule, the board shall cause to be published a concise summary of the regulatory flexibility analysis in the Iowa Administrative Bulletin at least 20 days prior to the adoption of the proposed rule. In the case of a rule made effective under Iowa Code section 17A.4(2) or 17A.5(2) "b," the board shall publish the summary within 90 days after the publication of the rule. The published summary shall state how interested persons may obtain the full text of the board's analysis at cost. The~~

~~published summary shall also fix a time and place where interested persons may make an oral presentation on the analysis.~~

~~These rules are intended to implement Iowa Code section 474.1, 474.10, 476.2 and 546.7.~~

199—3.10(17A, 474) Regulatory analysis.

3.10(1) *Regulatory analysis.* The Board shall issue a regulatory analysis of a proposed rule, or of a rule adopted without prior notice and opportunity for public participation, when required by 1998 Iowa Acts, chapter 1202, section 10.

3.10(2) *Request for regulatory analysis.* A request for a regulatory analysis shall be in writing and shall specify the proposed rule or adopted rule for which the analysis is requested.

3.10(3) *Schedule extended.* Upon receipt of a timely written request for a regulatory analysis of a proposed rule, the time periods for filing written comments and for requesting an oral proceeding are extended to a date 20 days after publication of a concise summary of the regulatory analysis in the Iowa Administrative Bulletin. Any oral proceeding that may already have been scheduled will be rescheduled by the board to a date at least 20 days after publication of the summary.

199—3.11(17A, 474) Review of rules. Pursuant to Iowa Code section 17A.7, upon receipt from the administrative rules coordinator of a request for formal review of a specified rule, the Board will determine whether the rule has been reviewed within the preceding five years. If such a review was conducted, the Board will report that

fact to the administrative rules coordinator. If no such review has been conducted, the board will consider whether the rule should be repealed or amended or a new rule adopted in its place. The board will prepare a written report summarizing its findings, supporting reasons, and proposed course of action. Copies of the report will be sent to the administrative rules review committee, the administrative rules coordinator, and will be made available for public inspection.

November 23, 1999

/s/ Allan T. Thoms
Allan T. Thoms
Chairperson